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Congress of the United States
House of Representatives
Washington, DC 20515-2215

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The Honorable Michael Leavitt
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, NW.
Washington, D.C. 20460-0001

Dear Administrator Leavitt,

As you know, included in the FY 2004 Omnibus Appropriation bill is \$1 million for the implementation of the *Agreement Between the Government of the United States of America and the Government of Canada Concerning the Transboundary Movement of Hazardous Waste*. I write today to inform you of my intention when I, along with my colleagues from Michigan, Representatives Fred Upton, Bart Stupak, and Mike Rogers, offered this amendment, as well as to request that you provide me with a detailed accounting of how EPA intends to implement our provision.

In FY 2003, Michigan received 9,433,028 cubic yards of municipal solid waste (MSW) from Canada, an increase of 42.8 percent over FY 2002. More than half of this Canadian waste is disposed of in my Congressional District. This works out to be nearly 200 truckloads of MSW per day. Customs officials have told us in no uncertain terms that they consider these trucks "high risk" and nearly impossible to inspect. A recent shipment included 50 pounds of marijuana. During the SARS outbreak in Toronto, where much of the garbage comes from, a Michigan State Trooper found a trash truck dripping blood. On two separate occasions, innocent citizens were hit by these semi-trucks filled with garbage.

In 1986, the United States and Canada signed the *Agreement Between the Government of the United States of America and the Government of Canada Concerning the Transboundary Movement of Hazardous Waste*, which was amended in 1992 to also govern the transport of municipal solid waste. Article 5.3 of the Bilateral Agreement expressly provides that "to the extent any implementing regulations are necessary to comply with this Agreement, the Parties will act expeditiously to issue such regulations consistent with domestic law." Article 5.3 further and specifically provides that "pending such issuance, the Parties will make best efforts to provide notification in accordance with this Agreement where current regulatory authority is insufficient."

On Wednesday, July 23, 2003, the Energy and Commerce Subcommittee on Environment and Hazardous Materials heard testimony from EPA. The Agency's witnesses were able to give us a timeline for when Canada might be done with their regulatory process. Unfortunately, they were unable to give Members of the Subcommittee any idea when EPA might be through its

process. It is simply outrageous that the United States signed this agreement more than 11 years ago and nothing has been done to implement the notice and consent provisions laid out in a very clear manner in the agreement.

The \$1 million provided by the Dingell-Upton-Stupak-Rogers amendment in the FY 04 Omnibus Appropriations bill is specifically for the implementation of the bilateral agreement. As your agency moves forward with this process, I would strongly urge EPA not consent to any shipment until it has considered the views of the affected state and local governments, as well as the impact of the importation on continued public support and adherence to local recycling programs, landfill capacity, air emissions from increased vehicular traffic, road deterioration from increased vehicular traffic, and public health and the environment.

The swift and thorough implementation of this agreement is critical to the citizens of Michigan, along with other states that receive Canadian waste. As such, please provide me with a detailed accounting of how EPA plans to spend the money provided in the FY 2004 Omnibus Appropriations bill to effectuate and implement the notice and consent provisions as outlined in Article 5.3 of the Bilateral Agreement.

Additionally, I would ask that you provide answers to the following questions:

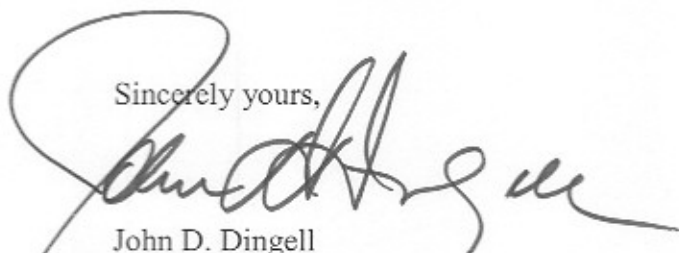
1. Has the United States requested that Canada exercise "best efforts" to comply with the terms of the Bilateral Agreement? If so, please provide documentation of any U.S. request.
2. During the July 23, 2003 Subcommittee hearing, the Agency witness indicated that Canada would be adopting regulations to implement the notice and consent provisions for municipal solid waste (MSW) in 2004. When does EPA expect the United States to receive the first notification from the Canadian Government that Canada will be sending a shipment of MSW?
3. What, if any, additional legislative authority does EPA need to ensure that it includes the views of the state and local governments, the impact of the importation on continued public support and adherence to local recycling programs, landfill capacity, air emissions from increased vehicular traffic, road deterioration from increased vehicular traffic, and public health and the environment when implementing the notice and consent provisions?
4. Does EPA support H.R. 411, which gives the Agency enforcement authority, as well as clear guidelines to inform the Agency's decision on whether to give consent after notification is received?
5. Does EPA support H.R. 1730, introduced by Representative James Greenwood?

As the FY 2005 appropriations cycle is well under way, a response by close of business Friday, April 2 is necessary to ensure that any additional needs can be addressed this year.

Thank you in advance for your prompt and thorough attention to this matter. Should you have any questions, please do not hesitate to contact me or have your staff contact Katie Murtha at (202) 225-4071.

With every good wish,

Sincerely yours,

A handwritten signature in dark ink, appearing to read "John D. Dingell". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

John D. Dingell
Member of Congress